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919-854-1401 MBS&amp;S

NO. 4869 P. 1

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Attorney Docket No.: 9399-32007 NOV -5 PH 5:40 OCT 29 2007

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Klein et al.  
Application No.: 10/792,339  
Filed: March 3, 2004

Confirmation No.: 4548  
Group Art Unit: 1616  
Examiner: Nathan W. Schlientz

For: METHODS FOR CONTROLLING FUNGI AND BACTERIA

Date: October 29, 2007

Mail Stop 16  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR REFUND OF FEE  
UNDER 37 C.F.R. §1.26 AND 37 C.F.R. §1.28(a)

Sir:

Applicant respectfully submits this Request for Refund of Fee pursuant to 37 C.F.R. §1.26 and 37 C.F.R. §1.28(a) in the amount of \$195.00. Applicant submits that the three Terminal Disclaimers filed on October 29, 2007 included payment in full for a large entity. Applicant is a small entity. Thus, the fee paid for three Terminal Disclaimers was in excess of the \$195.00 fee required to be paid by Applicant.

As Applicant has asserted small entity status under 37 C.F.R. § 1.27 and a request for refund within three (3) months of the date of the timely payment of the full fee, Applicant respectfully requests a refund in the amount of \$195.00 (the difference in the full fee and the fee for a small entity) to be credited to Deposit Account 50-0220.

Respectfully submitted,



Shawna Cannon Lemon  
Registration No. 53,888

USPTO Customer No. 20792  
Myers Bigel Sibley & Sajovec  
Post Office Box 37428  
Raleigh, North Carolina 27627  
Telephone: 919/854-1400  
Facsimile: 919/854-1401

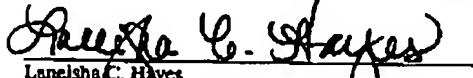
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919-854-1401 MBS&S

NO. 4869 P. 2

**CERTIFICATION OF FACSIMILE TRANSMISSION  
UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office via  
facsimile number 571-273-8300 on October 29, 2007.

  
Laneisha C. Hayes  
Date of Signature: October 29, 2007

## Application Number Information

Application Number: 10/792339

Assignments

Filing or 371(c) Date: 03/03/2004 eDan

Effective Date: 03/03/2004

Application Received: 03/04/2004

Patent Number:

Issue Date: 00/00/0000

Date of Abandonment: 00/00/0000

Attorney Docket Number: 9399-3

Status: 41 /NON FINAL ACTION MAILED

Confirmation Number: 4548

Title of Invention: METHODS FOR CONTROLLING FUNGI AND BACTERIA

Examiner Number: 82604 / SCHLIENTZ, NATHAN

Group Art Unit: 1616

IFW Madras

Class/Subclass:

514/358.000

Waiting for Response  
Desc.

Lost Case: NO

Interference Number:

Mail Non Final

Unmatched Petition: NO

Mailed Referral

L&amp;R Code: Secrecy Code:3

Third Level Review: YES

Secrecy Order: NO

Status Date: 09/17/2007

Oral Hearing: NO

Bar Code	PALM Location	Location Date	Charge to Loc	Charge to Name	Employee Name	Location
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Appln  
Info

Contents

Petition Info

Atty/Agent Info

Continuity/Reexam

Foreign Data

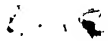
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## Electronic Patent Application Fee Transmittal

<b>Application Number:</b>	10792339			
<b>Filing Date:</b>	03-Mar-2004			
<p>Adjustment date: 11/29/2007 SFELEKE1  10730/2007 INTEFSW 00010875 500220 10792339  01 FC:1814 390.00 CR</p> <p><b>Title of Invention:</b></p>	Methods for controlling fungi and bacteria			
<b>First Named Inventor/Applicant Name:</b>	Richard B. Klein			
<b>Filer:</b>	Shawna Cannon Lemon/Laneisha Hayes			
<b>Attorney Docket Number:</b>	9399-3			
Filed as Small Entity				
<b>Utility Filing Fees</b>				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
<b>Basic Filing:</b>				
<b>Pages:</b>				
<b>Claims:</b>				
<b>Miscellaneous-Filing:</b>				
<b>Petition:</b>				
<b>Patent-Appeals-and-Interference:</b>				
<b>Post-Allowance-and-Post-Issuance:</b>				
Statutory disclaimer	1814	3	130	390
<b>Extension-of-Time:</b>				

 Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				390

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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)  
9399-3

In re Application of: Klein, et al.

Application No.: 10/792,339

Filed: March 3, 2004

For: METHODS FOR CONTROLLING FUNGI AND BACTERIA

The owner\*, Mycosol, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 11/745,111, filed on May 7, 2007, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 53,888



Signature

October 29, 2007

Date

Shawna Cannon Lemon

Typed or printed name

11/29/2007 SFELEKE1 00000001 500220 10792339

03 FC:2814 65.00 DA

(919) 854-1400

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING  
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Docket Number (Optional)

9399-3

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Application No.: 10/792,339

Filed: March 3, 2004

For: METHODS FOR CONTROLLING FUNGI AND BACTERIA

The owner\*, Mycosol, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/792,465, filed on March 3, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 53,888



Signature

October 29, 2007

Date

Shawna Cannon Lemon

Typed or printed name

11 29/2007 SFELEKE1 00000001 500220 10792339

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)  
9399-3

In re Application of: Klein et al.

Application No.: 10/792,339

Filed: March 3, 2004

For: METHODS FOR CONTROLLING FUNGI AND BACTERIA

The owner\*, Mycosol, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 7,220,761 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

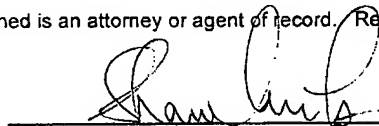
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

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